

**Agenda**  
**Advisory Committee**  
**on Rules of Civil Procedure**

March 28, 2001  
4:00 to 6:00 p.m.

Administrative Office of the Courts  
Scott M. Matheson Courthouse  
450 South State Street  
Council Room, Suite N31

Approval of minutes	Fran Wikstrom
Rule 30(d). Presumptive limit on depositions.	Tom Lee
Rule 37. Sanctions.	
Court reporter inquiries	Fran Wikstrom
Rules 5 & 55; Lund v. Brown	Tim Shea

**Meeting Schedule**

April 18  
May 16  
September 26  
October 24  
November 28  
December: No meeting

# MINUTES

## UTAH SUPREME COURT ADVISORY COMMITTEE ON THE RULES OF CIVIL PROCEDURE

Wednesday, March 28, 2001  
Administrative Office of the Courts

Francis M. Wikstrom, Presiding

PRESENT: Francis M. Wikstrom, Terrie T. McIntosh, Virginia S. Smith, Thomas R. Lee, Leslie W. Slaugh, Anthony B. Quinn, R. Scott Waterfall, Paula Carr, Honorable Ronald N. Boyce

STAFF: Timothy M. Shea, James T. Blanch, Marilyn M. Branch

EXCUSED: Glenn C. Hanni, Mary Anne Q. Wood, Thomas R. Karrenberg, James R. Soper

GUEST: Esther Chelsea-McCarty

### I. WELCOME AND APPROVAL OF MINUTES

Committee Chairman Francis M. Wikstrom called the meeting to order at 4:00 p.m. The minutes of the February 21, 2001 meeting were reviewed and approved without amendment.

### II. RULE 30(D), PRESUMPTIVE LIMIT ON DEPOSITIONS

Thomas Lee explained his proposed amendment to Rule 30(d), as outlined in his 3/20/2001 memorandum to the Committee. The language will bring the rule in line with a recent amendment to the federal rule by imposing a presumptive seven-hour time limitation on depositions.

Terrie McIntosh inquired whether there was a perceived problem that needed to be addressed with depositions going on too long. Francis Wikstrom expressed support for the rule. Leslie Slaugh stated a concern that attorneys might come to view the seven-hour limit as a goal, rather than a limitation.

Thomas Lee moved to amend the rule with the language proposed in his 3/20/2001 memorandum. Leslie Slaugh seconded the motion. It passed unanimously. The Committee also agreed unanimously to substitute the word "person" for the word "party" in the second sentence of Rule 30(d)(1).

### **III. RULE 37. SANCTIONS**

Thomas Lee explained his proposed amendments to Rule 37, as outlined in his 3/20/2001 memorandum to the Committee. The language will bring Utah's sanctions rule in line with recent amendments to the federal rule. Judge Quinn moved to approve the amendment. Virginia Smith seconded the motion. It passed unanimously.

### **IV. COURT REPORTER INQUIRIES**

Francis Wikstrom explained two inquiries raised by Shelly Wadsworth of the Utah Court Reporters' Association, which she outlined in a letter dated March 8, 2001. The consensus of the Committee was that the issues raised did not create significant confusion and did not require further action by the Committee. Mr. Wikstrom indicated that he would respond to Ms. Wadsworth's letter appropriately.

### **V. RULES 5 & 55; LUND V. BROWN**

Tim Shea explained an ambiguity created by the interplay between Rule 5 and Rule 55. The ambiguity concerns the type of notice that must be sent to a party in default. Mr. Shea noted that the Utah Supreme Court had recently clarified the ambiguity in Lund v. Brown, holding that notice must be given to parties in default. Nevertheless, the Committee felt it was advisable to clarify the language of the Rules themselves to avoid confusion. Tim Shea will draft clarifying language to bring the rules in line with the Lund v. Brown opinion. The Committee will consider this language at a future meeting.

### **VI. OTHER BUSINESS**

Francis Wikstrom advised the Committee members to begin thinking about additional matters that can be addressed by the Committee at future meetings.

### **VII. ADJOURNMENT**

The meeting adjourned at 4:35 p.m. Absent notice to the contrary, the next meeting of the Committee will be held at 4:00 p.m. on Wednesday, April 18, 2001, at the Administrative Office of the Courts.